

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D28665
O/prt

_____AD3d_____

Submitted - October 4, 2010

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
CHERYL E. CHAMBERS
LEONARD B. AUSTIN, JJ.

2009-05497

DECISION & ORDER

In the Matter of Tylik Shaquwn B. (Anonymous).
New Alternatives for Children, Inc., petitioner-
respondent; Chris E. B. (Anonymous), appellant,
et al., respondent.

(Docket No. B-2096-04)

Elliot Green, Brooklyn, N.Y., for appellant.

James M. Abramson, PLLC, New York, N.Y., for petitioner-respondent.

Anthony J. Morisano, Staten Island, N.Y., attorney for the child.

In a proceeding pursuant to Social Services Law § 384-b to terminate parental rights on the ground of permanent neglect, the father appeals, as limited by his brief, from so much of an order of fact-finding and disposition of the Family Court, Richmond County (McElrath, J.), dated April 16, 2009, as, after fact-finding and dispositional hearings, determined that his consent was not required for the child's adoption.

ORDERED that the order of fact-finding and disposition is affirmed insofar as appealed from, without costs or disbursements.

The father's contention that Domestic Relations Law § 111(1)(d) is unconstitutional as applied to him is unpreserved for appellate review, as is his contention that the petitioner should be equitably estopped from denying that he is the subject child's father (*see Matter of Coleman v Thomas*, 295 AD2d 508, 509).

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The father's contention that he was entitled to be present at and participate in certain permanency hearings was not the subject of the order appealed from and, thus, is not properly before this Court (*see Amex Assur. Co v Kulka*, 67 AD3d 614, 616).

RIVERA, J.P., ANGIOLILLO, CHAMBERS and AUSTIN, JJ., concur.

2009-05497

DECISION & ORDER ON MOTION

In the Matter of Tylik Shaquwn B. (Anonymous).
New Alternatives for Children, Inc., petitioner-
respondent; Chris E. B. (Anonymous), appellant,
et al., respondent.

(Docket No. B-2096-04)

Motion by the appellant on an appeal from an order of fact-finding and disposition of the Family Court, Richmond County, dated April 16, 2009, to strike stated portions of the brief for the respondent New Alternatives for Children, Inc., on the ground that the material contained in those portions of the brief is not properly before this Court. By decision and order on motion of this Court dated August 27, 2010, the motion was held in abeyance and was referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the submission of the appeal, it is

ORDERED that the motion is denied.

RIVERA, J.P., ANGIOLILLO, CHAMBERS and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court